

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

In re:

Case No. 07-59039

JOSEPH P. WILLIAMS,

Chapter 13

and

Judge Thomas J. Tucker

ELVA C. MACLIN-WILLIAMS,

Debtors.

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**ORDER DENYING, AS UNNECESSARY, DEBTORS' MOTION TO  
EXTEND THE AUTOMATIC STAY**

This case is before the Court on Debtors' Motion to extend the automatic stay, under 11 U.S.C. § 362(c)(3)(B), which was filed twice on September 26, 2007 (Docket ## 8 and 9). As explained during the October 18, 2007 hearing on the motion, the Court must deny the motion because it is unnecessary. 11 U.S.C. § 362(c)(3) does not apply in this case, and thus the automatic stay will not terminate under that section.

Section 362(c)(3)(A) provides:

**(3)** if a single or joint case is filed by or against debtor who is an individual in a case under chapter 7, 11, or 13, and if a single or joint case of the debtor was pending within the preceding 1-year period but was dismissed, other than a case refiled under a chapter other than chapter 7 after dismissal under section 707(b) —

**(A)** the stay under subsection (a) with respect to any action taken with respect to a debt or property securing such debt or with respect to any lease shall terminate with respect to the debtor on the 30th day after the filing of the later case;

11 U.S.C. § 362(c)(3)(A). This provision does not apply to this case because Debtors did not have any case "pending" within the 1-year period before filing this case.

Debtors filed a voluntary petition for relief under Chapter 13 on September 24, 2007, initiating this case. This is Debtors' second bankruptcy case. Debtors filed their first case on February 1, 2006, Case No. 06-41112. An Order dismissing the prior case was entered on June 26, 2006. The Chapter 13 Trustee filed her final report on October 30, 2006. The Clerk closed the case on January 10, 2007.

The prior case was no longer "pending," within the meaning of § 362(c)(3), after June 26, 2006, the date on which the Court entered its order dismissing the case. *See, e.g.,* Black's Law Dictionary 1154 (7th ed. 1999) ("Pending" means: "Remaining undecided; awaiting decision (a pending case)"). And it was the order dismissing the prior case that terminated the automatic stay in that case, not the later acts of the Chapter 13 filing her final report or the Clerk's closing the case. *See* 11 U.S.C. § 362(c)(2)(B). Any delay by the Chapter 13 Trustee in filing her final report, or by the Clerk in closing the case, therefore, did not keep the case "pending" in the sense in which that word is used in § 362(c)(3).

For these reasons, Debtors' motion, while no doubt filed out of an abundance of caution, is not necessary. The stay will not terminate under § 362(c)(3)(A).

Accordingly,

IT IS ORDERED that Debtors' motion to extend the automatic stay (Docket ## 8 and 9), is DENIED as unnecessary.<sup>1</sup>

**NOT FOR PUBLICATION**

**Signed on October 18, 2007**

**/s/ Thomas J. Tucker**  
**Thomas J. Tucker**  
**United States Bankruptcy Judge**

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<sup>1</sup> The Court notes that the ruling in this Order is consistent with the ruling made in the October 6, 2006 Order in the Chapter 13 case *In re Jones*, Case No. 06-54030 (Docket # 15).